

## **THE CLAIMS:**

The following is a complete listing of the claims.

- 1-56. (Cancelled)
57. (Previously amended) A fertile, transgenic plant, the genome of which has been altered through the addition of a functional genetic element comprising a gene that encodes a CryET29 crystal protein or peptide comprising SEQ ID NO: 2, wherein said gene confers upon said plant a phenotypic trait that is not found in the parentage of said plant.
58. (Cancelled).
59. (Previously amended) A cell obtained from the transgenic plant of claim 57.
60. (Previously amended) Progeny of the plant of claim 57, wherein the progeny comprise the functional genetic element.
61. (Previously amended) A seed from the progeny of claim 60, wherein the seed comprises the functional genetic element.
62. (Previously amended) The transgenic plant of claim 57, wherein said functional genetic element comprises a promoter operatively linked to said gene.
- 63-70. (Cancelled)
71. (Previously presented) A transgenic plant comprising a *cryET29* transgene as contained in plasmid pEG1298 which is contained in *Escherichia coli* strain having accession number NRRL B-21624.
72. (Previously presented) A transgenic plant comprising a transgene encoding a CryET29 crystal protein as produced in *Bacillus thuringiensis* strain having accession number NRRL B-21582.